

12 NOV 1976

DCI RELATIONS WITH CONGRESS

DCI relations with Congress fall basically into the following areas: General Legislative Oversight, Appropriations, Covert Action, Substantive Intelligence Support, Investigations of Intelligence Community Activities by Non-oversight Committees and Legislation.

I. General Oversight -- is handled by the Select Committee on Intelligence with 15 members and by Subcommittees of the Senate and House Armed Services Committees involving a total of 14 members.

II. Appropriations -- Are handled by Subcommittees of the Senate and House Appropriations Committees involving a total of 18 members.

III. Covert Action -- Is handled in addition to the above committees by Subcommittees of the Senate Foreign Relations and House International Relations Committees with a total of 9 members, which receive reports on all covert action programs pursuant to statute (Sec 662 of Foreign Assistance Act of 1961, as amended).

IV. Substantive Intelligence Support -- Is rendered to a number of other committees, offices (e. g. Congressional Budget Office) and individual members.

V. Investigations of Intelligence Community Activities by Non-oversight Committees -- Arises on an ad hoc basis and we are anticipating heavy support to the new House Select Committee on Assassinations which will be investigating, at least initially, the deaths of former President Kennedy and Martin Luther King.

VI. Legislation -- Is formulated, where needed, and monitored to ensure that our activities are not impacted unintentionally.

The above areas of interest are more specifically defined below.

I. General Legislative Oversight

A. Senate Select Committee on Intelligence (SSCI)

1. Responsibilities: The SSCI has exclusive jurisdiction over CIA and sequential jurisdiction over the remainder of the IC and has, basically, the following responsibilities:

- legislation
- annual appropriation authorization
(for the first time -- previously funds were appropriated without an annual authorization)
- matters generally, including oversight to ensure policy makers get necessary, accurate and timely intelligence, and to ensure rights of American citizens are not infringed.

2. Issues:

- Separation of Powers. The determination of the members and staff to be fully and currently informed of intelligence activities will pose serious questions with respect to striking a balance between

prerogatives of the committee and executive privilege.

- Budget disclosures. The committee may well vote to release publicly budget figures for the National Foreign Intelligence ^{Program} plan and/or totals for each IC component. Of the 15 members of the committee, 10 have previously voted to reveal the budget, 3 have voted against public release, and 2 have not been recorded on the issue.

Disclosure of sensitive information. The committee can vote to disclose any information they wish to. If they do so, the President has 5 days to object and if he does so, the committee reconsiders its vote. If it votes again to disclose, it then goes to the full Senate for discussion and vote, which can result in referral back to committee for decision.

- Proliferation of sensitive information. In spite of the committees conscientious effort to maintain strict security, the number of people involved (15 members, almost 50 staffers) and possible turnover poses problems.

3. Opportunities.

- Charter. The Committee has created an ad hoc subcommittee to study charters and guidelines. Any revision will have a lasting effect on the IC.

This will present the opportunity to provide specific authority to conduct espionage and covert action as well as to clearly set out any other authority, or limitations the IC should be governed by.

- Quality of Intelligence. A subcommittee is currently studying this area and the committee has been directed to complete the study by 1 July 1977. This will provide the IC with the opportunity to tell its story with respect to intelligence collection.
- Congressional and Public Trust. The thorough and serious approach of the committee and staff will, in large measure, help to restore trust and confidence in the IC.

B. Senate Armed Services Committee, CIA Subcommittee.

While this subcommittee technically exercises general oversight jurisdiction, due to the advent of the SSCI, these responsibilities have de facto shifted to the new committee. Even so, we are continuing to keep the committee informed of IC matters generally. The Committee is especially kept informed on matters of foreign military intelligence. It will have an active role and influence on the authorization of IC appropriations.

C. House Armed Services Committee, Special Subcommittee on Intelligence.

1. Responsibilities.

-- legislation

-- matters generally other than appropriations

with special emphasis to ensure the subcommittee is kept currently informed of foreign intelligence developments with particular emphasis on foreign weaponry.

2. Issues. None

3. Opportunities.

Joint or House oversight. While it is appreciative of the problems of fractionated jurisdiction in the House and the proliferation of sensitive information which would be resolved by a House committee similar to the SSCI, it may be reluctant to relinquish its unique jurisdiction.

-- Legislation. The subcommittee could provide valuable support in obtaining passage of Agency-proposed legislation such as sources and methods and 2 deputies.

II. Appropriations Oversight

A. Senate Appropriations Committee, Intelligence Operations Subcommittee

1. Responsibilities.

-- Appropriations. Since the Senate follows the House in the appropriations process, Senate action is generally limited to adjusting House figures. During the past few

years, the subcommittee has tended to restore some funds cut by the House.

2. Issues. Subcommittee work has suffered from its failure to allocate sufficient staff personnel to reviewing intelligence budgets. This situation has been remedied somewhat with the recent assignment of a Majority staff member to the subcommittee and by a decision of the Minority clerk to devote more time to the intelligence budget.
3. Opportunities. With the added staff interest in the intelligence budget, it should be possible to present IC arguments in such a way as to off-set decisions made by the House which adversely affect IC programs.

B. House Appropriations Committee, Defense Subcommittee.

1. Responsibilities.
 - Appropriations with respect to the IC budget and its cost effectiveness. Its report is issued in a short unclassified statement and a very detailed classified annex. The Chairman, in fulfillment of his responsibilities to the House, has offered to all members of the House the right to see the IC budget and the subcommittee report thereon.

2. Issues.

-- Access to information. In pursuit of its responsibilities, the staff has asked for and received an enormous amount of sensitive information on all aspects of IC programs. Such requests have included information which the IC maintains is privileged Executive Branch information and has been denied by the IC. These denials in large part have led to the investigations mentioned below.

-- Interjection of Subcommittee into Executive Branch policy and management decisions. An example of this is the Subcommittee staffs refusal to deal with the DCI's Legislative and General Counsels on non--CIA matters. Various proposals have been made to solve these problems but so far without success. Other examples are to be found in major cuts imposed on certain IC programs.

-- Subcommittee investigations. Currently the Surveys and Investigations Staff has underway separate investigations into IC activities including SIGINT, Communications, Training and a full review of CIA/DDO activities. These investigations, coming on the heels of the Rockefeller, Church and Pike investigations have cost the IC considerably in terms of lost man hours and disruption of morale.

3. Opportunities.

-- The transition period would be a propitious time to curtail somewhat the seemingly endless number of investigations.

- This period could also be well utilized to formulate Executive Branch policy with respect to the requests for internal documents and other information considered privileged.
- The development of closer ties to members of the subcommittee could help to alleviate somewhat the stresses experienced with the staff.
- The provision of a technical expert to the subcommittee during markup, if allowed by the subcommittee, could help to ensure that any cuts made of major IC programs are made based on a full knowledge of the facts.

C. Senate and House Budget Committee. Recent changes in the law provide for increased oversight of all Executive Branch budgets. It is uncertain at this time to what extent these Committees will be provided detailed access to IC budgets, but they no doubt will receive the total figures hopefully under a condition of non-disclosure.

III. Covert Action

A. Responsibilities.

Current law requires that the appropriate committees (seven committees, including the subcommittees mentioned in I and II and the Senate Foreign Relations (SFRC) and the House International Relations (HIRC) Committee) receive reports on the scope and description of all covert action programs found necessary by the President.

B. Issues.

- Proliferation of sensitive information. The above procedures mean that at a minimum 56 members of Congress will be informed of all covert action programs conducted by the IC under the direction of the President. In addition to such members, the principle staff member of those subcommittees also attend such briefings. Also, SFRC and HIRC procedures allow any member of the full committee to receive information provided the subcommittees. Technically, all 435 members of the House have access to any committee records.
- Public release of covert action information. The proliferation of such information as outlined above has led to numerous instances where considerable information on covert action programs has been released to the public. Such release has jeopardized a number of programs and has led to the cancellation of at least one major program.

C. Opportunities

The current period could be utilized to review the above procedures to see if a modification thereof might be in order and possible.

IV. Substantive Intelligence Support.

A. Non-oversight committees.

1. Responsibilities.

Under the current procedures, the IC briefs any committee on the substantive intelligence available on almost any subject requested. In doing so, however, no operational matters or sensitive intelligence which would reveal intelligence sources and methods is provided. When questions arise with respect to the latter, the committees are politely referred to the appropriate oversight subcommittees.

2. Issues. In the past, certain committees were not satisfied with the procedures with respect to the refusal to provide operational or sensitive information, however, in most cases, they abided thereby.

3. Opportunities. The transition period provides an appropriate time to review these procedures and to obtain policy guidance thereon.

B. Leadership and Individual Members of Congress.

The IC has worked out a system whereby the Majority and Minority leaders of the House, and to a lesser extent Senate leadership, as kept currently informed of intelligence with respect to worldwide events of significance. In addition, individual members can and do ask for and receive briefings on a wide range of subjects of interest to them in formulating positions on proposed legislation and in preparation for trips abroad.

V. Investigations of IC Activities by Non-oversight Committees

House Select Committee on Assassinations. The IC is currently establishing liaison with this new committee with the objective of ensuring that it receives and handles in an appropriate manner all information relevant to its charter. It is expected that this will entail a large number of man-hours over an extended period.

VI. Legislation.

A. Draft Proposals Already Submitted.

1. Intelligence Sources and Methods.

-- Purpose: The DCI has statutory responsibility to protect against the unauthorized disclosure of intelligence sources and methods. The lack of criminal sanctions for unauthorized disclosure continues to present a serious problem for the Government's National Foreign Intelligence Program. Recent publication of books and articles by persons having authorized access to sensitive intelligence information have damaged the Government's foreign efforts. Legislation establishing criminal sanctions for such unauthorized disclosure of intelligence sources and methods is considered to be a very important deterrent. It would not apply to ^{an} unauthorized recipient _A or the publication of the material by newsmen, etc.

-- Status: The legislation was transmitted by the President to the 94th Congress and introduced as H.R. 12006 but no further action was taken.

2. Two Deputies.

--Purpose: The National Security Act of 1947, as amended, established the CIA and the positions of Director of Central Intelligence (DCI) and a Deputy Director of Central Intelligence (DDCI). Over the years, as the requirements, responsibilities and workload of the DCI have increased--particularly his duty to oversee and coordinate the functioning of the Intelligence Community--it has become increasingly apparent that a second statutory Deputy Director is needed if the DCI is to properly carry out his duties and to ensure the most effective functioning of U. S. foreign intelligence. The Rockefeller Commission recommended the creation of a second DDCI position. The President, in Executive Order 11905 (issued 18 February 1976), directed that the day-to-day functioning of the CIA be directed by the DDCI and that the position of "Deputy to the Director of Central Intelligence for the Intelligence Community" be established to assist the DCI in his supervision of the IC.

--Status: The proposed legislation was approved by OMB for transmittal to the Congress in September 1976.

B. Other Legislation.

1. Charter Revision.

-- Reason. The SSCI has created a subcommittee to study and propose charter revisions. The predecessor Church committee recommended a number of charter changes.

-- If it is determined that the charter is to be revised, included should be explicit authority to conduct espionage and covert action with the necessary infrastructure. Such a revision should also explicitly define the authority and limitations of the DCI and the IC.

2. Establishment of a Joint Committee on Oversight or House House Select Committee on Intelligence.

-- Need. While the House exercises oversight over the IC, it has not set up machinery equivalent to the SSCI in spite of pressure by a number of House members to take action to pull abreast of the Senate. Creation of a House version of the SSCI, if it had the necessary exclusive jurisdiction, would help diminish the proliferation of information. However, an even greater reduction could

be accomplished through the establishment of a joint committee. It makes sense to push for a joint committee at this time before the House sets up its "SSCI" in order to avoid the problem of parochial interests that would go along with an "HSCI". Also, the SSCI is to make recommendations in the summer of 1977 concerning the structure of congressional oversight in the Congress.

- Revision of House Rules. Concurrently with the establishment of a "HSCI", House Rule XI should be modified to ensure that IC information is not made available to all House members requesting such information.

3. Repeal of Sec. 662 (Covert Action Reporting)

Since the purpose of a Joint committee would be to concentrate oversight and avoid proliferation, repeal of Sec. 662 should be part and parcel of the joint committee legislation. However, in repealing Sec. 662, some provision must be made to protect the legitimate interests of the Senate Foreign Relations Committee and the House International Relations Committee in being aware of those matters which affect or support the foreign policy of the U. S..

4. Firearms Legislation.

-- Purpose. The only authority to carry firearms now in existence relates solely to the protection of classified documents. There is a need to protect certain IC persons and to authorize those charged with this responsibility to carry firearms for this purpose.

5. Electronic surveillance. The DCI supported a carefully drawn Bill on this subject during the 94th Congress. While that Bill did not reach the floor, it most likely will emerge during the next session and must be carefully monitored.

Note: This paper was prepared in
response to a request from
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